IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE ELEVENTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE ELIPE DHARMA RAO

-

WRIT PETITION NO : 10892 of 2005

Between:

K.Chandraiah @ Ramachandrayya S/o.Naraiah Naidu
R/o.Edigapalle Village, Pedavarampadu Cuddapah District, rep. by Smt.Kilari Sashikala.

..... PETITIONER

AND

1 Assistant Engineer A.P.Transco Korlakunta Village, Obulavaripalle Mandal,

Kadapa District.
2 The Mandal Revene Officer Obulavaripalle Mandal, Kadapa District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ, order or direction, more particularly one in the nature of writ of Mandamus declaring high handed action of the respondents in taking away the electric starter and other electrical equipments from the borewell in the land admeasuring Ac 2-03 cents in Sy.No.14 IP and Ac.0.13 cents in Sy.No.4-P of Pedavarampadu Gram Panchayat, Kadapa District as arbitrary, illegal, coloarable exercise of power and violative of the Fundamental Rights guaranteed under Article 19 and 21 of the Constitution of India and consequently direct the respondents not to interfere with the right to draw water from the existing borewell in the schedule land.

Counsel for the Petitioner: MR.C.V.R.RUDRA PRASAD

Counsel for the Respondents: GP FOR REVENUE

The Court at the admission stage made the following :

O R D E R:

This writ petition is filed seeking to declare the action of the respondents in taking away the electric starter and other electrical equipments from the bore-well in the land admeasuring Ac.2-03 cents in Sy.No.14-1P and Ac.0-13 cents in Sy.No.4-P of Pedavarampadu Gram Panchayat, Kadapa District as arbitrary and illegal, and consequently to direct the respondents not to interfere with the right to draw water from the existing bore-well in the said land.

It is stated that the father of the petitioner and after his death, his wife and his sons, including the petitioner, have been cultivating the land to an extent of Ac.20-00 and that their cultivation depends on the water drawn from two bore-wells, one is placed in the land of the brother of the petitioner and the other is in the scheduled land. It is also stated that the dispute in the present case is with regard to the second bore-well, which was dug by the father of the petitioner and the same has been in use for the last twenty years. However, due to the drought in the area, the said bore-well was not in use for some time and thereafter, in view of the improved climatic conditions, they are now able to use the said bore-well. While so, due to political rivalry, their neighbouring ryots approached the second respondent

in the second week of April, 2005 alleging that the petitioner dug a new bore-well without prior permission. The respondents, in the third week of April, 2005, took away the electric starter and wires connecting the said bore-well. Immediately, the petitioner approached the respondents requesting to return the said electrical gadgets and also complained to the Revenue Divisional Officer about the highhanded action of the respondents. However, on the repeated requests made by the petitioner, the respondents returned the said electrical gadgets having satisfied that the said bore-well has been in use for the last twenty years. It is further stated that apprehending that one Mr. Kilari Srinivasulu Naidu, who filed W.P.No.9673 of 2005, may obtain *ex parte* interim orders by misrepresenting the facts before this Court, the petitioner filed a Caveat on 24-04-2005 and the same was numbered. While so, on 28-04-2005, the first respondent, due to the political pressure and as per the directions of the second respondent, removed the starter along with the wire connecting electric pole to the bore-well. Immediately, the petitioner approached the respondents, but no further steps have been taken so far. Hence, this writ petition.

It is represented by the learned Government Pleader that pursuant to the interim order, dated 03-04-2005, passed by this Court in this writ petition, the respondents have returned the electrical equipment to the petitioner.

As a matter of fact, the relief sought for in this writ petition does not survive for adjudication in view of the statement given by the learned Government Pleader. However, it is the case of the petitioner that the bore-well-in-question is in existence for the last 20 years and due to the drought it cannot be used for some time and subsequently, now it is being in use. The question as to whether the bore-well-in-question is in existence for the last twenty years or not is a matter to be decided by the respondent authorities, but not by this Court

invoking the jurisdiction under Article 226 of the Constitution. Therefore, without expressing any opinion on the merits of the case, I deem it appropriate to direct the petitioner to file an application before the respondent authorities as required under the statute, if not already filed.

The writ petition is accordingly disposed of directing the petitioner to submit an application for permission under Section 8 of the Act, if not already submitted, within a period of two weeks from the date of receipt of a copy of this order. On receipt of such application, the respondents are directed to enquiry into the matter and pass appropriate orders, in accordance with law, after giving due opportunity to the parties concerned, within a period of eight weeks thereafter. Till such time, status quo obtaining as on today shall be maintained. No costs.

(ELIPE DHARMA RAO, J)

Date:11-07-2005

ghn

To

1 Assistant Engineer A.P.Transco Korlakunta Village, Obulavaripalle Mandal,

Kadapa District.

2 The Mandal Revene Officer Obulavaripalle Mandal, Kadapa District.

3 Two copies to G.P. for Revenue, High Court buildings,

Hyderabad.(O.U.T.)

4 2 CD copies